GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare Department – Appeal petition filed by Sri Manchala Venkata Rao S/o Surya Narayana, Khairatabad, Hyderabad District, working in Income Tax Department , against the proceedings Ref.No.C5 (M)1071/2001, dated:17.09.2005 of the District Collector, East Godavari under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition dismissed – Orders - Issued.

TRIBAL WELFARE (CV.2) DEPARTMENT

G.O.MS.No. 8 Dated: 30-01-2018

Read the following:

1. Proceedings of the District Collector, East Godavari, Ref.No.C5 (M)1071/2001, dated:17.09.2005.
2. Appeal Petition filed by Sri Manchala Venkata Rao S/o Suryanarayana, Khairatabad, Hyderabad District before M(SW&TW) on 04.12.2005.
3. Govt. Memo.No.9987/CV2/2005, dated 17.12.2005.
4. From the Dist. Collector, East Godavari, Lr.No.C5(M)/1454/05, dt.30.08.06.
5. Govt. Memo.No.9987/CV2/2005, dated 16.07.2007, 03.09.2007 & 22.07.2008.
6. Govt. Lr.No.9987/CV2/2005, dated02.09.2009.
7. Govt. Memo.No.9987/CV2/2005, dated 01.05.2012, 27.06.2015, 17.11.2015, 07.12.2016, 12.01.2017 & 29.05.2017.
8. Govt. Memo.No.9987/CV2/2005, dated 30.06.2017.

ORDER:

In the reference 1st read above, the District Collector, East Godavari has issued orders canceling the ST – Konda Kapu Caste Certificates of Sri Manchala Venkata Rao S/o (late) Surya Narayana and his family members of Pidatamamidi (V) of Gangavaram (M) of East Godavari District.

2. In the reference 2nd read above, Sri Manchala Venkata Rao S/o (late) Surya Narayana, has filed an Appeal Petition before the Government, against the said Proceedings of the District Collector, East Godavari. After examining the said Appeal Petition, Government have admitted the Appeal Petition and granted stay on the proceedings of the District Collector, East Godavari and called for the parawise remarks and connected records from the District Collector, East Godavari in the reference 3rd read above.

3. In the reference 4th read above, the District Collector, East Godavari has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Sri Manchala Venkata Rao S/o (late) Surya Narayana.

4. The said Appeal Petition has been posted for hearing on 23.07.2007, 17.09.2007, 04.08.2008, 19.09.2009, 11.05.2012, 25.07.2015, 28.11.2015, 24.12.2016, 24.01.2017, 17.06.2017 and finally on 15.07.2017 and the same has been informed to the Appellant and the Counsel for the Appellant in the references 5th to 8th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government.

5. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant/ the parawise remarks submitted by the District Collector, East Godavari and proceedings of the District Collector, East Godavari, dated 17.09.2005, the Appellate Authority has observed that:

[P.T.O]

I. The appellant in his grounds has stated that his father, late Sri Manchala Suryanarayana belongs to Scheduled Tribe (Konda Kapu) community, resident of Pidatamamidi village of Yellavaram Taluk and presently in Gangavaram Mandal, East Godavari District has migrated to plains in search of his livelihood much prior to 1960 and settled in Kakinada. Further he has stated that the District Level Scrutiny Committee have with unjust and illegal observation has brushed aside the (13) documents submitted by the appellant in support of his community claim.

II. The District Level Scrutiny Committee has observed that as per the request of the Chief Commissioner of income taxes, Hyderabad the Collector referred the case claim of the petitioner to the MRO, Gangavaram. Based on the report of MRO, Gangavaram, there were no families resided in Pidathamamidi village by the surname of “Manchala” and no Manchala surname was found place in the birth and death registers and Electoral rolls in Pidathamamidi village.The village Sarpanch and others regarding the whereabouts of the respondent have informed that there is no person by name Sri Manchala Venkata Ra o in the village and his whereabouts are also not known to them. Mere residence in Agency Area and possessing landed properties in Scheduled Areas does not confer any right to claim ST caste.The Affidavit is not a documentary evidence to determine the caste of the individual. The village officers are not competent authorities to issue caste certificates and to make enquiries in confirming the caste of any of the individual. Further, as per the extracts furnished by the MRO, Gangavaram and Addathegala a female child born to Sri Manchala Bungayya and Nagamma on 30.10.1961 in Jaggampalem(V) their caste was recorded as Adi -Andhra (SC) and in a copy of birth extract of a female child who was born to Smt. & Sri Manchala Venkanna and Nagayamma on 25.4.1944 their caste was recorded as Kapu. The petitioner failed to furnish any recorded proof or evidence in support of his grandfather or fore fathers caste status as Kondakapu. The Committee opined that the appellant failed to prove his ST status, though ample time and opportunity was given to him and recommended to the District Collector, for cancellation of Kondakapu(ST) caste certificate. In view of the observations and recommendations of the DLSC the Collector, cancelled the fraudulent “Kondakapu” caste certificates obtained by the appellant.

III. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

IV. The Appellate Authority is observed that during the course of arguments that the appellant called absent and there is no representation on behalf of the appellant. As per the record the notice served to the appellant as such he was aware of the date of hearing. The appeal is long pending one and a such arguments tread as heard and the matter is decided based on the material available on record on merits. On verification of the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that the contention of the appellant is as seen from the letter addressed by the District Collector, East Godavari to the Principal Andhra Polytechnic College, Kakinada in year 1960 with regard to the caste verification of his elder brother conforming the caste is evident that the caste of the appellant cannot be doubted and he belongs to the Konda Kapu ST and further stated that the DLSC failed to observe the documents filed by the appellant in support of his caste legally and the committee merely rely upon the statements of Sarpanch of Pidathamamidi by the MRO has

[Contd..on P.3]

recommended to cancel his caste certificate. Further it is observed that as per the record the enquiry of MRO Ganvgavaram reveals that no families resided in Pidathamamidi Village by surname Manchala from where the father of appellant migrated and further from the extracts furnished by him indicates the Manchala surname recorded as Kapu in the birth register of one of the child who born in the year 1944. It is further observed that the Government gave several opportunities to the Appellant to prove his caste but, the Appellant failed to furnish any proof of evidences in support of his claim of caste of his ancestors and as per the record that the appellant failed to discharge his burden by producing evidence that he belongs to Konda Kapu ST caste in support of his claim and as seen from the totality of the case more particularly the report of concerned it can be safely concluded that the appellant does not belongs to Konda Kapu ST caste as claimed by him. Hence it is apparent that the appeal is devoid of any merits and there is no infirmity either in the findings of the DLSC or the Learned District Collector, East Godavari District. That taking consideration of the above and the material available on the record that it can be concluded that the lower authority passed the orders as per law which does not deserve any interference. The interim stay orders passed if any in the appeal is hereby vacated.

6. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decide that the appeal petition filed by Sri Manchala Venkata Rao S/o (late) Surya Narayana, does not deserve any interference. Hence, Proceedings of the District Collector, East Godavari issued vide Ref.No.C5(M)1071/2001, dated:17.09.2005, is hereby upheld and the Appeal Petition filed by Sri Manchala Venkata Rao S/o (late) Surya Narayana,, is hereby dismissed and the Certificates issued to Sri Manchala Venkata Rao S/o (late) Surya Narayana and his family members of Pidatamamidi (V) of Gangavaram (M) of East Godavari District, deemed to be cancelled and the interim stay granted earlier stands vacated.

7. The District Collector, East Godavari is directed to take necessary consequential action in the matter.

8. The records (containing Ref.No.C5(M)1071/2001, dated:17.09.2005 pages: 1-672) received from the District Collector, East Godavari through in the reference 4th read above, are returned herewith in original to the District Collector, East Godavari and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANCHRA PRADESH)

S.S. RAWAT
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, East Godavari
(with original records) (BY RPAD)
The Tahsildar, Gangavaram, East Godavari District.
Sri Manchala Venkata Rao S/o Suryanarayana,
R/o D.No. 6-3-581, Khairatabad, Hyderabad District.
Sri M.P. Chandramouli, Advocate, Flat No.5, Somavarapu Heights,
Hill Top Colony, Erramanzil, Khairatabad (West), Hyderabad-82.
The Chief Commissioner, Income Tax Department, A.P., Amaravathi.
Copy to :
The Director, TCR& TI, AP, Amaravathi.
The PS to M(SWE& TWE).
The PS to Prl. Secretary(SW&TW).

// FORWARDED BY ORDER //

SECTION OFFICER